

Message Text

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ACTION STR-07

INFO OCT-01 STRE-00 ISO-00 AF-10 ARA-10 EA-10 EUR-12
NEA-10 AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00
EB-08 FRB-03 H-01 INR-10 INT-05 L-03 LAB-04
NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15 ITC-01
TRSE-00 USIA-06 SP-02 SOE-02 OMB-01 DOE-11 /144 W
-----075699 171935Z /43

P 171823Z FEB 78

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 6145

INFO AMEMBASSY BRUSSELS

AMEMBASSY OTTAWA

AMEMBASSY TOKYO

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USMTN USEEC

STR PASS CODEL

E.O. 11652 N/A

TAGS; ETRD, MTN, BE, JA, CA

SUBJECT: PLURILATERAL SAFEGUARD DISCUSSIONS

REF; GENEVA 01294

BEGIN SUMMARY: INFORMAL MEETING OF KEY MTN DELS,
2/16, MOVED TOWARD CONSENSUS ON APPROACH FOR
DEVELOPING PLURILATERAL SAFEGUARDS NEGOTIATING
TEXT. USING JAPANESE "NEUTRAL" AGENDA (REFTEL) AS
DEPARTURE POINT, DELS AGREED TO ORGANIZE EXISTING
TEXTS (VIZ., EC/U.S. PAPER AND NEW NORDIC PROPOSAL)
UNDER APPROPRIATE AGENDA HEADINGS--THIS ON UNDER-
STANDING THAT FUTURE SUBMISSIONS(EXPECTED WITHIN
2 WEEKS FROM SEVERAL DELS, INCLUDING JAPAN) WILL
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BE CRANKED INTO THE AGENDA IN SAME WAY. END SUMMARY

1. IN FIRST PLURILATERAL SAFEGUARD MEETING OF ITS
TYPE, HOSTED BY U.S. ON "EXPERIMENTAL BASIS," KEY
DELS (U.S., EC, JAPAN, NORDIC, AUSTRALIA, CANADA,
AND SWITZERLAND) AGREED TO PROCEED WITH NEUTRAL
WORK METHOD FOR DEVELOPING NEGOTIATING TEXT WHICH

WOULD HELP FRAME ISSUES FOR EVENTUAL RESOLUTION AT POLITICAL LEVEL. THOUGH TONE OF MEETING WAS EXTREMELY CAUTIOUS, DELS REACTED POSITIVELY TO INFORMAL PLURILATERAL SETTING AND TO U.S. SUGGESTION THAT TIME HAD ARRIVED TO BEGIN STRUCTURING NEGOTIATING TEXT. ATMOSPHERE CHARACTERIZED BY JAPANESE (UKAWA) STATEMENT THAT "THOUGH YOU HAVE JAPAN'S AGREEMENT ON NOTHING, AS TECHNOCRAT, I AM INTERESTED IN FINDING RANGE OF POSSIBILITIES." DELS AGREED WITH U.S. SUGGESTION TO FILL-IN JAPANESE AGENDA WITH PIECES OF EXISTING TEXTS (MAINLY U.S./EC PAPER) ON CONDITION THAT FUTURE SUBMISSIONS BE ACCORDED LIKE TREATMENT AND THAT NO ONE BE CONSIDERED BOUND BY PROPOSALS. IT WAS FURTHER AGREED THAT AT THIS STATE NO NEW BRACKETS WOULD BE ADDED TO TEXT LANGUAGE, NOR WOULD TEXTS BE ATTRIBUTED TO PARTICULAR DELS.

2. PRESENCE OF SECRETARIAT (KAUTZOR-SCHROEDER) AT MEETING (AT HIS OWN INSISTENCE) PROMPTED GENERAL COMMENTS ON CONFIDENTIALITY AND NEED TO PRESERVE INFORMALITY OF MEETING. U.S. (HARTZELL) STATED THAT SECRETARIAT PRESENT FOR OBSERVER PURPOSES ONLY. ALL AGREED THAT FUTURE ATTENDANCE TO BE DECIDED ON CASE-BY-CASE BASIS. IN EFFECT, SECRETARIAT WAS TOLD, "WE'LL CALL YOU".
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3. NORDICS (EKBLOM OF FINLAND) OFFERED THREE "NEW" PROPOSALS ON SELECTIVITY, INJURY CHECKLIST, AND STRUCTURAL ADJUSTMENT (TEXT AND ACCOMPANYING COMMENTS TO FOLLOW SEPTEL). THIRD OF THESE IS VARIATION OF SCANDINAVIAN "SOCIAL CLAUSE" PREVIOUSLY SEEN IN ILO CIRCLES), CONCERNING STRUCTURAL ADJUSTMENTS TO IMPORT COMPETITION WHICH TAKE INTO ACCOUNT, INTER ALIA FAIR LABOR STANDARDS. NORDICS OBSERVED THAT PROPOSAL SEEKS TO DISTRIBUTE BURDEN OF ADJUSTMENT BETWEEN IMPORTERS AND EXPORTERS. WE SAID THIS PROPOSAL WILL REQUIRE EXPLANATION, SWITZERLAND (GERBER) WONDERED WHETHER PROPOSAL WAS APPROPRIATE FOR CONSIDERATION IN GATT CONTEXT, AND JAPAN STATED PREFERENCE THAT PROPOSAL BE ELIMINATED.

4. FOCUSING SPECIFICALLY ON U.S./EC PAPER, PARTS OF WHICH WERE READ-IN UNDER AGENDA ITEMS 1, 2, AND 3, THE FOLLOWING POINTS EMERGED:

(A) AUSTRALIA (SPENCER) RAISED PROBLEM OF

INCONSISTENCY BETWEEN CODE PROVISIONS AND ARTICLE XIX. CITING SELECTIVITY AS EXAMPLE, SPENCER ARGUED THAT AMENDMENT TO GATT WOULD BE NECESSARY. RESPONDING THAT ARTICLE XIX NOT CLEAR ON ISSUE OF SELECTIVITY, EC (ABBOTT) NOTED THAT ATTEMPT IS TO ELABORATE ON ARTICLE XIX, NOT CREATE NEW RIGHTS AND OBLIGATIONS, AND THAT AS A PRACTICAL MATTER (NOT JURIDICAL), IF SIGNATORIES CAN AGREE AMONG THEMSELVES THERE WOULD BE NO NEED TO AMEND GATT ANYWAY.

(B) ON SAME THEME, AUSTRALIA WONDERED HOW TO RECONCILE CODE WITH ARTICLE XIX IN REGARD TO

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RETALIATION, USE OF WHICH IS PERMISSIVE IN GATT BUT SEEMINGLY FORECLOSED UNDER CODE IF PRESCRIBED CONDITIONS ARE MET. NOTING THAT IT HAD SLIGHTLY SOFTENED ITS POSITION ON THIS POINT IN LIGHT OF OCTOBER CONSULTATIONS, U.S. EMPHASIZED THAT PURPOSE OF EXERCISE WAS TO FLAG, NOT RESOLVE THESE ISSUES.

(C) SPENCER ALSO ARGUED THAT LANGUAGE IN U.S./EC

PAPER ARTICLE 1 ("WITHOUT PREJUDICE TO...RESTRICTIVE MEASURES UNDER...AGREEMENTS AND ARRANGEMENTS NEGOTIATED UNDER GATT AUSPICES...") WAS IN EFFECT ITSELF AN ESCAPE CLAUSE THAT WOULD PERMIT EXEMPTION OF CERTAIN BILATERAL ACTIONS FROM CODE DISCIPLINE. U.S. POINTED OUT THAT OBJECT WAS SIMPLY TO PRESERVE EXISTING GATT RIGHTS WHILE LIMITED OFFICIAL USE

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BRINGING ALL TRUE SAFEGUARD ACTIONS UNDER CODE UMBRELLA, AND THAT SPECIFYING WHICH AGREEMENTS AND ARRANGEMENTS WERE EXCLUDED MAY BE APPROPRIATE AT END OF DAY BUT NOT NOW. EC RESPONDED THAT AUSTRALIA'S CONCERN WAS UNFOUNDED BUT THAT IT MIGHT HELP TO INSERT "MULTILATERAL" BEFORE "AGREEMENTS AND ARRANGEMENTS".

(D) SWITZERLAND QUESTIONED WHY TERM "SAFEGUARD ACTION" WAS UNDEFINED IN U.S./EC PAPER. WE RESPONDED THAT DEFINITION NOT INCLUDED (1) FOR SAKE OF BREVITY AND (2) BECAUSE IT MIGHT BE ASSUMED ALL KNEW MEANING (WE NOTED A GOOD DEFINITION COULD BE FURNISHED FROM PREVIOUS, UNCIRCULATED, U.S. DRAFT). EC CONCURRED WITH EXPLANATION, ADDING THAT IT WOULD NOT OBJECT TO INCLUDING A DEFINITION. (E) REGARDING EC LANGUAGE REQUIRING THRESHOLD OF INJURY SHOWING TO "A MAJOR PART OF ALL" DOMESTIC PRODUCERS, AUSTRALIA QUERIED HOW THIS AFFECTED POSITION ON REGIONAL ACTIONS. EC SAID ITS PRACTICE ON THIS WOULD REMAIN UNCHANGED, THAT IT (EC) WOULD EXPECT TO TAKE SAFEGUARD ACTIONS ON BASIS OF INJURY TO EITHER FULL COMMUNITY OR MEMBER STATES WHICH AFTER ALL WERE "CONTRACTING PARTIES" REFERRED TO IN XIX. WE COMMENTED THIS COULD HAVE WIDER IMPLICATIONS AFFECTING EC ROLE IN ALL CODES BUT DID NOT PRESS POINT.

5. DISCUSSIONS CAME TO ABRUPT HALT AT AGENDA ITEM 4 (SELECTIVITY AND EXPORT RESTRAINT) WITH JAPAN ANNOUNCEMENT THAT IT COULD NOT DISCUSS SELECTIVITY "AT PRESENT STAGE IN PLURILATERAL SETTING". UPON NORDIC OUTBURST THAT NEGOTIATIONS LIMITED OFFICIAL USE

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COULDN'T CONTINUE IF SELECTIVITY NOT DISCUSSED, JAPAN EXPLAINED THAT ITS INTENTION WAS NOT TO

EXCLUDE THE ISSUE FROM NEGOTIATION AND REPEATED ABOVE COMMENT. (FYI: WE SUSPECT UKAWA WAS TAKING ULTRA-CAUTIOUS POSITION PENDING ARRIVAL OF FOUR DIVISION DIRECTORS FROM TOKYO MINISTRIES THIS WEEKEND, ALL OF WHOM WILL BE FIRING UP HIS GUIDANCE NEXT WEEK ON SAFEGUARDS. END FYI)

6. IN CLOSING, U.S. SOLICITED VIEWS ON HOW TO HANDLE LDCS WHILE NEGOTIATING TEXT BEING DEVELOPED. EC SUGGESTED, AND ALL AGREED, THAT UNTIL NEGOTIATING TEXT COMPLETE BEST COURSE IS TO MAINTAIN LDC CONTACT THROUGH BILATERAL OR SMALL PLURILATERAL MEETINGS.

7. U.S. VOLUNTEERED TO ASSEMBLE ALL TEXTS SO FAR AVAILABLE UNDER UKAWA'S AGENDA FOR DISTRIBUTION AT NEXT MEETING, TO BE HOSTED BY JAPAN FEB 23. MEETING WILL CONSIDER REST OF AGENDA AND NEW TEXTS.

8. ADDITIONAL TEXTS EXPECTED; BOTH SWITZERLAND AND CANADA PROMISED TO OFFER NEW MATERIAL WITHIN NEXT COUPLE WEEKS. U.S. ALERTED DELS IT MAY HAVE SOME NEW TEXT WITHIN NEXT WEEK OR SO UNDER AGENDA ITEMS 2, 4, 6, AND 7; AND, SIGNIFICANTLY, JAPAN STATED THAT SOME UNCLEARED WRITTEN TEXTS COULD BE EXPECTED WITHIN 10 DAYS.

9. COMMENT: WE VIEW THIS KICKOFF SESSION AS REASONABLY SUCCESSFUL IN GETTING MAIN DELS INVOLVED, WITHOUT PROTEST, IN PROCESS OF ASSEMBLING A FULL TEXT. DISCUSSION OF SUBSTANCE WAS TROUBLESOME AT POINTS (E.G., NORDIC-JAPAN CONFRONTATION PARA 5) BUT MECHANICAL WORK OF CREATING WORKING DOCUMENT SEEMS TO BE UNDERWAY. DRAFTED BY ADDUCI MCDONALD
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